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Alan Murray

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EXAMINER

HARWARD, SOREN T

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Art Unit: 1645

DETAILED ACTION

1. Applicants' Response to Final Office Action, received 13 October 2009, is acknowledged. Claims 13, 14, 18, 20, 22, 24, 27, 30 and 41 have been amended.
2. Claims 1-51 are pending and under consideration.

Rejections Withdrawn

3. The rejection of claim 14 under 35 U.S.C. 112, second paragraph, as being indefinite for identity of antibody which binds to unknown regions, is withdrawn in light of the amendment of the claim.
4. The rejection of claims 20-23, 29 and 48 under 35 U.S.C. 112, second paragraph, as being indefinite for identity of immune response, is withdrawn in light of the amendment of the claims.
5. The rejection of claims 24-26 under 35 U.S.C. 112, second paragraph, as being indefinite for identity of unknown regions, is withdrawn in light of the amendment of the claims.
6. The rejection of claim 41 under 35 U.S.C. 112, second paragraph, as being indefinite for identity of antibody which binds to unknown regions, is withdrawn in light of the amendment of the claim.
7. The rejection of claim 49 under 35 U.S.C. 112, second paragraph, as being indefinite for claimed invention, is withdrawn in light of the claim amendments.

Rejections Maintained

8. The rejection of claim 13 under 35 U.S.C. 112, second paragraph, as being indefinite for identity of unknown regions, is maintained.

Applicants' argue that the amendment of the claim obviates the rejection.

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The examiner has considered applicants' argument, in light of the claim amendment, but does not find it persuasive. As newly amendment, the claim is drawn to ≥ 1 primer capable of binding to and amplifying a "polynucleotide which encodes a polypeptide consisting of" SEQ ID NO:1 or residues 20-235 of SEQ ID NO:1.

As amended, the only known region of the polynucleotide is that which encodes a polypeptide consisting of SEQ ID NO:1 or residues 20-235 of SEQ ID NO:1. The recitation still permits any number of nucleotides on either end of the known region. Thus, the metes and bounds of the identity of possible primers remains unclear.

9. The rejection of claim 18 under 35 U.S.C. 112, second paragraph, as being indefinite for identity of unknown regions, is maintained.

Applicants' argue that the amendment of the claim obviates the rejection.

The examiner has considered applicants' argument, in light of the claim amendment, but does not find it persuasive. As newly amendment, the claim is drawn to ≥ 1 primer capable of amplifying a polynucleotide which encodes a polypeptide "consisting of SEQ ID NO:1 or residues 20-235 of SEQ ID NO:1".

As amended, the only known region of the polynucleotide is that which encodes a polypeptide consisting of SEQ ID NO:1 or residues 20-235 of SEQ ID NO:1. The recitation still permits any number of nucleotides on either end of the known region. Thus, the metes and bounds of the identity of possible primers remains unclear.

10. The rejection of claims 27 and 28 under 35 U.S.C. 112, second paragraph, as being indefinite for identity of unknown regions, is maintained.

Applicants' argue that the amendment of the claim obviates the rejection.

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The examiner has considered applicants' argument, in light of the claim amendment, but does not find it persuasive. As newly amendment, the claim is drawn to a method utilizing ≥ 1 primer capable of binding to and amplifying a "polynucleotide which encodes a polypeptide consisting of" SEQ ID NO:1 or residues 20-235 of SEQ ID NO:1.

As amended, the only known region of the polynucleotide is that which encodes a polypeptide consisting of SEQ ID NO:1 or residues 20-235 of SEQ ID NO:1. The recitation still permits any number of nucleotides on either end of the known region. Thus, the metes and bounds of the identity of possible primers remains unclear.

11. The rejection of claims 30-32 under 35 U.S.C. 112, second paragraph, as being indefinite for identity of unknown regions, is maintained.

Applicants' argue that the amendment of the claim obviates the rejection.

The examiner has considered applicants' argument, in light of the claim amendment, but does not find it persuasive. As newly amendment, the claim is drawn to a method utilizing a polynucleotide capable of binding to and amplifying a "polynucleotide which encodes a polypeptide consisting of" SEQ ID NO:1 or residues 20-235 of SEQ ID NO:1.

As amended, the only known region of the polynucleotide, utilized as an indicator in the method, is that which encodes a polypeptide consisting of SEQ ID NO:1 or residues 20-235 of SEQ ID NO:1. The recitation still permits any number of nucleotides on either end of the known region. Thus, the metes and bounds of the identity of the bound polynucleotide sequences from the sample remains unclear when the binding is due to the unknown regions of the binding polynucleotide.

Conclusion

12. Claims 13, 18, 27, 28 and 30-32 remain rejected.

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13. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Wednesday from 9:00 AM to 7:30 PM EST. Thursday is the examiner's work at home day.

If attempts to reach the Examiner by telephone are unsuccessful, please contact the Examiner's Supervisor, Robert B. Mondesi (571)272-0956.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rodney P. Swartz, Ph.D./

Primary Examiner, Art Unit 1645

November 17, 2009